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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PENG, FRED H				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/087,975

Applicant(s)

KAMEN ET AL.

Examiner

FRED PENG

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 10-13, 19-22 and 25-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10-13, 19-22 and 25-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 01/28/2009 have been fully considered but they are not persuasive.

Applicant argues on pages 9-10 of Remarks that as of Claim 1, Griesau of US 7,324,168 is not qualified as a prior art because the office action makes no reference to the purported disclosure of the earlier-filed '605 application and Griesau reference is properly cited against the present application only if "the earlier-filed application properly supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. § 112, first paragraph". Specifically, only the portions of Griesau that are supported by the parent application in accordance with 35 U.S.C. § 112, first paragraph are entitled to gain the benefit of the October 18, 1999 priority date. Because the Office Action does not rely on the disclosure of the '605 application, nor even refer to this earlier-filed application, the rejection is improper.

The Examiner respectfully disagrees with Applicant's arguments. Since '168 application of Griesau is the divisional case of the earlier '605 application; therefore, the '168 application would have automatically gained the priority date of earlier '605 application. Furthermore, by definition, the content disclosure of earlier '605 application should inherently include all the subject matters as disclosed in the divisional '168 application and the earlier '605 application does teach the subject matter of a button in a universal remote control that can be programmed for more than one function as evidenced in (Col 5 lines 39-45). Therefore, Griesau et al (US 7,324,168) is qualified as a prior art.

The Applicant further argues in Claims 28, 33 and 38, that the reference from Shaffer does not cure the deficiencies of a third function corresponding to a third duration range.

The Examiner also disagrees. Saib first discloses specifying two different functions based on different time durations. Shaffer further discloses more time duration can be made in relation to system performance. Therefore, a person of ordinary skill in the art would have had good reason to pursue the known options of further specifying additional duration range for more

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functions based on design needs. It would require no more than "ordinary skill and common sense" to add an additional range if the circumstance arises to need a third function.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 10-13, 19-22 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saib et al (US 2001/0005905) in view of Griesau et al (US 7,324,168).

Regarding Claims 1, 10 and 19, Saib discloses an apparatus (FIG.2) with corresponding method and computer-readable medium (FIG.2, -37) comprising:

a processor (FIG.2, -29) having a memory (37) coupled thereto, the memory having stored thereon executable instructions which, when executed by the processor, cause the processor to perform a method comprising:

receiving at a multimedia presentation device controller an indication of a depression of a channel selection button (FIG.3, 302);

receiving an indication of an ending of the depression of the channel selection button (304; decision making is based on indication of an ending);

evaluating a depression duration of the channel selection button (304; decision making is evaluating a depression duration); and

performing one of a plurality of functions associated with the channel selection button, wherein the function performed is based upon the depression duration (FIG.3, 306, 308, 310, 312; Para 6 lines 1-2; Para 32 lines 1-5; Para 28 lines 1-8).

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Saib discloses a designated Jump button to perform the function based upon the depression duration but not a generic number button.

In an analogous art, Griesau discloses a key or a button in a universal remote controller can be programmed for more than a function (Col 2 lines 16-19, 54-58; Col 2 line 66 – Col 3 line 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Saib's system to include a numerical button to be programmed for additional functions, as taught by Griesau to program more functions in a generic key so an existing keypad layout can be used to reduce the cost.

Regarding Claims 2, 11 and 20, Saib further discloses evaluating the depression duration comprises:

determining depression of button; periodically incrementing a counter during the depression duration; and evaluating the counter value, upon termination of the depression of a button (Para 28 lines 1-3; Para 31 lines 6-10; Para 28 lines 5-7; Para 28 lines 8-12; The CPU acting as a computer function is inherent to perform the counter functionality and evaluate the value).

Regarding Claims 3, 4, 12, 13, 21 and 22, Saib further discloses the plurality of functions affect a favorite channel list, wherein a plurality of channels favorites are positioned in the list non-sequentially (channel is randomly selected and is positioned non-sequentially), wherein the functions affecting the favorite channel list include one or more of accessing, updating, programming and last channel (Para 36 lines 7-10; Para 37 lines 1-3; Para 6 lines 5-13; Para 5 lines 2-6).

Regarding Claims 25, 26 and 27, Saib inherently discloses selection of channels based on the number keys from a remote control (press "3" button on the remote will select channel 3).

3. Claims 28, 33 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saib et al (US 2001/0005905) in view of Shaffer et al (US 7,181,027).

Regarding Claims 28, 33 and 38, Saib discloses a device controller (FIG.2) with corresponding method and computer-readable medium (FIG.2, -37) comprising:

a processor (FIG.2, -29) having a memory (37) coupled thereto, the memory having stored thereon executable instructions which, when executed by the processor, cause the processor to perform a method comprising:

receiving an indication of a depression of a button on the device controller;

receiving an indication of an ending of the depression of the button;

evaluating a depression duration of the button and classifying the depression duration into two ranges, wherein a first depression duration range is associated with a first function on the device controller, a second depression duration range is associated with a second function on the device controller, and performing the function associated with the depression duration range of the button on the device controller (FIG.3; Para 6 lines 1-2; Para 32 lines 1-5; Para 28 lines 1-8).

Saib discloses a duration threshold to determine a first and second functions but is silent about a third depression duration range is associated with a third function on the device controller.

In an analogous art, Shaffer discloses a first time duration threshold to detect a user's speech and a second time duration threshold, the third duration range to detect the end of the speech (FIG.4; Col 8 lines 59-64).

Therefore, a person of ordinary skill in the art would have had good reason to pursue the known options of further specifying additional duration range for more functions based on design needs. It would require no more than "ordinary skill and common sense" to add an additional range if the circumstance for more functions arises.

Regarding Claims 39 and 40, Shaffer discloses specifying multiple duration ranges for different functions but is not explicit about the fourth range. However, a person of ordinary skill in the art would have had good reason to pursue the known options of further specifying additional duration range for more functions based on design needs. It would require no more than "ordinary skill and common sense" to add an additional range if the circumstance arises for more functions.

4. Claims 29-30 and 34-35 rejected under 35 U.S.C. 103(a) as being unpatentable over Saib et al (US 2001/0005905) and Shaffer(US 7,181,027) as applied to claims 28 and 33 above, and further in view of Griesau et al (US 7,324,168).

Regarding Claims 29 and 34, Saib discloses defining a key functions based on the depress duration. Shaffer further discloses dividing more time durations with multiple thresholds to obtain more functions (FIG.2; Para 15). Griesau discloses a key or a button can be programmed to any function.

However, all of them do not specifically disclose a termination function or skip function.

The Official Notice is taken that it is well known in the art to skip the command of depress keys to avoid unintentional contact.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined system of Saib, Shaffer and Griesau to include a skip function implemented in the keys so that unintended usage of important key functions can be prevented.

Regarding Claims 30 and 35, Saib and Shaffer are silent about programming specific keys like channel up or down buttons associated with a function for changing an operating mode of the multimedia presentation device.

In an analogous art, Griesau discloses programming specific keys like channel up or down buttons associated with a function for changing an operating mode of the multimedia presentation device (Col 6 lines 30-33).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Saib's system to include programming specific keys like channel up or down buttons associated with a function for changing an operating mode of the multimedia presentation device, as taught by Griesau so additional function can be achieved with the same key.

5. Claims 31 and 36 rejected under 35 U.S.C. 103(a) as being unpatentable over Saib et al (US 2001/0005905) and Shaffer (US 7,181,027) as applied to claims 28 and 33 above, and further in view of Coleman et al (US 5,844,620).

Regarding Claims 31 and 36, Saib discloses more than one function can be implemented in a single button based on the depress duration. Saib further discloses a jump function to jump back to the previously viewed channels but not specifically about the latest channels.

In an analogous art, Coleman discloses a last channel button function allow viewers to view the latest ten viewed channels (Col 23 lines 1-7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combined system of Saib and Shaffer to include viewing the last latest viewed channels, as taught by Coleman with a single key stroke to improve the overall reliability of the remote controller usage with less key strokes.

6. Claims 32 and 37 rejected under 35 U.S.C. 103(a) as being unpatentable over Saib et al (US 2001/0005905) and Shaffer(US 7,181,027) as applied to claims 28 and 33 above, and further in view of Look et al (US 6,757,906).

Regarding Claims 32 and 37, Saib and Shaffer are silent about displaying a progress bar related to the depression duration.

In an analogous art, Look discloses a progress bar related to a program duration (FIG.26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Saib's system to include a progress bar related to the process duration, as taught by Look as an added convenient tool to guide the users.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:30-19:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fhp

/JOSEPH P. HIRL/
Supervisory Patent Examiner, Art Unit 2426
May 20, 2009